

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 306

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DEMPSEY.

Offered April 1, 2009.

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TERRY L. SPIELER, Secretary.

0817S.07P

AN ACT

To repeal sections 208.215 and 287.266, RSMo, and to enact in lieu thereof nineteen new sections relating to health care services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 208.215 and 287.266, RSMo, are repealed and
2 nineteen new sections enacted in lieu thereof, to be known as sections 191.1127,
3 191.1130, 208.192, 208.215, 208.1300, 208.1303, 208.1306, 208.1309, 208.1312,
4 208.1315, 208.1318, 208.1321, 208.1324, 208.1327, 208.1330, 208.1333, 208.1336,
5 208.1345, and 287.266, to read as follows:

191.1127. The MO HealthNet program and the health care for
2 **uninsured children program under sections 208.631 to 208.659, RSMo,**
3 **in consultation with statewide organizations focused on premature**
4 **infant health care, shall:**

5 **(1) Examine and improve hospital discharge and follow-up care**
6 **procedures for premature infants born earlier than thirty-seven weeks**
7 **gestational age to ensure standardized and coordinated processes are**
8 **followed as premature infants leave the hospital from either a well-**
9 **baby nursery, step down or transitional nursery, or neonatal intensive**
10 **care unit and transition to follow-up care by a health care provider in**
11 **the community;**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 (2) Urge hospitals serving infants eligible for medical assistance
13 under the MO HealthNet and health care for uninsured children
14 programs to report to the state the causes and incidence of all re-
15 hospitalizations of infants born premature at earlier than thirty-seven
16 weeks gestational age within their first six months of life; and

17 (3) Use guidance from the Centers for Medicare and Medicaid
18 Services' Neonatal Outcomes Improvement Project to implement
19 programs to improve newborn outcomes, reduce newborn health costs,
20 and establish ongoing quality improvement for newborns.

191.1130. 1. The department of health and senior services shall,
2 by December 31, 2009, prepare written educational publications
3 containing information about the possible complications, proper care
4 and support associated with newborn infants who are born premature
5 at earlier than thirty-seven weeks gestational age. The written
6 information, at a minimum, shall include the following:

7 (1) The unique health issues affecting infants born premature,
8 such as:

- 9 (a) Increased risk of developmental problems;
- 10 (b) Nutritional challenges;
- 11 (c) Infection;
- 12 (d) Chronic lung disease (bronchopulmonary dysplasia);
- 13 (e) Vision and hearing impairment;
- 14 (d) Breathing problems;
- 15 (f) Fine motor skills;
- 16 (g) Feeding;
- 17 (h) Maintaining body temperature;
- 18 (i) Jaundice;
- 19 (j) Hyperactivity;
- 20 (k) Infant mortality as well as long-term complications
21 associated with growth and nutrition;
- 22 (l) Respiratory; and

23 (m) Reading, writing, mathematics, and speaking;

24 (2) The proper care needs of premature infants, developmental
25 screenings and monitoring and health care services available to
26 premature infants through the MO HealthNet program and other public
27 or private health programs;

28 (3) Methods, vaccines, and other preventative measures to

29 protect premature infants from infectious diseases, including viral
30 respiratory infections;

31 (4) The emotional and financial burdens and other challenges
32 that parents and family members of premature infants experience and
33 information about community resources available to support them.

34 2. The publications shall be written in clear language to educate
35 parents of premature infants across a variety of socioeconomic
36 statuses. The department may consult with community organizations
37 that focus on premature infants or pediatric health care. The
38 department shall update the publications every two years.

39 3. The department shall distribute these publications to
40 children's health providers, maternal care providers, hospitals, public
41 health departments, and medical organizations and encourage those
42 organizations to provide the publications to parents or guardians of
43 premature infants.

208.192. 1. By August 28, 2010, the director of the MO HealthNet
2 division shall implement a program under which the director shall
3 make available through its Internet web site nonaggregated
4 information on individuals collected under the federal Medicaid
5 Statistical Information System described in the Social Security Act,
6 Section 1903(r)(1)(F), insofar as such information has been de-identified
7 in accordance with regulations promulgated under the Health
8 Insurance Portability and Accountability Act of 1996, as amended. In
9 implementing such program, the director shall ensure that:

10 (1) The information made so available is in a format that is easily
11 accessible, useable, and understandable to the public, including
12 individuals interested in improving the quality of care provided to
13 individuals eligible for programs and services under the MO HealthNet
14 program, researchers, health care providers, and individuals interested
15 in reducing the prevalence of waste and fraud under the program;

16 (2) The information made so available is as current as deemed
17 practical by the director and shall be updated at least once per
18 calendar quarter;

19 (3) To the extent feasible, all health care providers, as such term
20 is defined in subdivision (20) of section 376.1350, RSMo, included in
21 such information are identifiable by name to individuals who access the
22 information through such program; and

23 (4) The director periodically solicits comments from a sampling
24 of individuals who access the information through such program on
25 how to best improve the utility of the program.

26 2. For purposes of implementing the program under this section
27 and ensuring the information made available through such program is
28 periodically updated, the director may select and enter into a contract
29 with a public or private entity meeting such criteria and qualifications
30 as the director determines appropriate.

31 3. By August 28, 2011, and annually thereafter, the director shall
32 submit to the general assembly and the MO HealthNet oversight
33 committee, a report on the progress of the program under subsection
34 1 of this section, including the extent to which information made
35 available through the program is accessed and the extent to which
36 comments received under subdivision (4) of subsection 1 of this section
37 were used during the year involved to improve the utility of the
38 program.

39 4. By August 28, 2011, the director shall submit to the general
40 assembly and the MO HealthNet oversight committee a report on the
41 feasibility, potential costs, and potential benefits of making publicly
42 available through an Internet-based program de-identified payment and
43 patient encounter information for items and services furnished under
44 Title XXI of the Social Security Act which would not otherwise be
45 included in the information collected under the federal Medicaid
46 Statistical Information System described in Section 1903(r)(1)(F) of
47 such act and made available under Section 1942 of such act, as added
48 by Section 5008.

49 5. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

50 (1) The provisions of the new program authorized under this
51 section shall automatically sunset six years after the effective date of
52 this section unless reauthorized by an act of the general assembly; and

53 (2) If such program is reauthorized, the program authorized
54 under this section shall automatically sunset twelve years after the
55 effective date of the reauthorization of this section; and

56 (3) This section shall terminate on September first of the
57 calendar year immediately following the calendar year in which the
58 program authorized under this section is sunset.

208.215. 1. MO HealthNet is payer of last resort unless otherwise

2 specified by law. When any person, corporation, institution, public agency or
3 private agency is liable, either pursuant to contract or otherwise, to a participant
4 receiving public assistance on account of personal injury to or disability or disease
5 or benefits arising from a health insurance plan to which the participant may be
6 entitled, payments made by the department of social services or MO HealthNet
7 division shall be a debt due the state and recoverable from the liable party or
8 participant for all payments made [in] on behalf of the participant and the debt
9 due the state shall not exceed the payments made from MO HealthNet benefits
10 provided under sections 208.151 to 208.158 and section 208.162 and section
11 208.204 on behalf of the participant, minor or estate for payments on account of
12 the injury, disease, or disability or benefits arising from a health insurance
13 program to which the participant may be entitled. **Any health benefit plan as**
14 **defined in section 376.1350, RSMo, third party administrator,**
15 **administrative service organization, and pharmacy benefits manager,**
16 **shall process and pay all properly submitted medical assistance**
17 **subrogation claims or MO HealthNet subrogation claims:**

18 (1) **For a period of three years from the date services were**
19 **provided or rendered, regardless of any other timely filing requirement**
20 **otherwise imposed by such entity, and the entity shall not deny such**
21 **claims on the basis of the type or format of the claim form, failure to**
22 **present proper documentation of coverage at the point of sale, or**
23 **failure to obtain prior authorization; and**

24 (2) **If any action by the state to enforce its rights with respect to**
25 **such claim is commenced within six years of the state's submission of**
26 **such claim.**

27 2. The department of social services, MO HealthNet division, or its
28 contractor may maintain an appropriate action to recover funds paid by the
29 department of social services or MO HealthNet division or its contractor that are
30 due under this section in the name of the state of Missouri against the person,
31 corporation, institution, public agency, or private agency liable to the participant,
32 minor or estate.

33 3. Any participant, minor, guardian, conservator, personal representative,
34 estate, including persons entitled under section 537.080, RSMo, to bring an action
35 for wrongful death who pursues legal rights against a person, corporation,
36 institution, public agency, or private agency liable to that participant or minor
37 for injuries, disease or disability or benefits arising from a health insurance plan

38 to which the participant may be entitled as outlined in subsection 1 of this section
39 shall upon actual knowledge that the department of social services or MO
40 HealthNet division has paid MO HealthNet benefits as defined by this chapter
41 promptly notify the MO HealthNet division as to the pursuit of such legal rights.

42 4. Every applicant or participant by application assigns his right to the
43 department of social services or MO HealthNet division of any funds recovered
44 or expected to be recovered to the extent provided for in this section. All
45 applicants and participants, including a person authorized by the probate code,
46 shall cooperate with the department of social services, MO HealthNet division in
47 identifying and providing information to assist the state in pursuing any third
48 party who may be liable to pay for care and services available under the state's
49 plan for MO HealthNet benefits as provided in sections 208.151 to 208.159 and
50 sections 208.162 and 208.204. All applicants and participants shall cooperate
51 with the agency in obtaining third-party resources due to the applicant,
52 participant, or child for whom assistance is claimed. Failure to cooperate without
53 good cause as determined by the department of social services, MO HealthNet
54 division in accordance with federally prescribed standards shall render the
55 applicant or participant ineligible for MO HealthNet benefits under sections
56 208.151 to 208.159 and sections 208.162 and 208.204. A **[recipient] participant**
57 who has notice or who has actual knowledge of the department's rights to
58 third-party benefits who receives any third-party benefit or proceeds for a covered
59 illness or injury is either required to pay the division within sixty days after
60 receipt of settlement proceeds the full amount of the third-party benefits up to
61 the total MO HealthNet benefits provided or to place the full amount of the
62 third-party benefits in a trust account for the benefit of the division pending
63 judicial or administrative determination of the division's right to third-party
64 benefits.

65 5. Every person, corporation or partnership who acts for or on behalf of
66 a person who is or was eligible for MO HealthNet benefits under sections 208.151
67 to 208.159 and sections 208.162 and 208.204 for purposes of pursuing the
68 applicant's or participant's claim which accrued as a result of a nonoccupational
69 or nonwork-related incident or occurrence resulting in the payment of MO
70 HealthNet benefits shall notify the MO HealthNet division upon agreeing to
71 assist such person and further shall notify the MO HealthNet division of any
72 institution of a proceeding, settlement or the results of the pursuit of the claim
73 and give thirty days' notice before any judgment, award, or settlement may be

74 satisfied in any action or any claim by the applicant or participant to recover
75 damages for such injuries, disease, or disability, or benefits arising from a health
76 insurance program to which the participant may be entitled.

77 6. Every participant, minor, guardian, conservator, personal
78 representative, estate, including persons entitled under section 537.080, RSMo,
79 to bring an action for wrongful death, or his attorney or legal representative shall
80 promptly notify the MO HealthNet division of any recovery from a third party and
81 shall immediately reimburse the department of social services, MO HealthNet
82 division, or its contractor from the proceeds of any settlement, judgment, or other
83 recovery in any action or claim initiated against any such third party. A
84 judgment, award, or settlement in an action by a [recipient] **participant** to
85 recover damages for injuries or other third-party benefits in which the division
86 has an interest may not be satisfied without first giving the division notice and
87 a reasonable opportunity to file and satisfy the claim or proceed with any action
88 as otherwise permitted by law.

89 7. The department of social services, MO HealthNet division or its
90 contractor shall have a right to recover the amount of payments made to a
91 provider under this chapter because of an injury, disease, or disability, or benefits
92 arising from a health insurance plan to which the participant may be entitled for
93 which a third party is or may be liable in contract, tort or otherwise under law
94 or equity. Upon request by the MO HealthNet division, all third-party payers
95 shall provide the MO HealthNet division with information contained in a 270/271
96 Health Care Eligibility Benefits Inquiry and Response standard transaction
97 mandated under the federal Health Insurance Portability and Accountability Act,
98 except that third-party payers shall not include accident-only, specified disease,
99 disability income, hospital indemnity, or other fixed indemnity insurance policies.

100 8. The department of social services or MO HealthNet division shall have
101 a lien upon any moneys to be paid by any insurance company or similar business
102 enterprise, person, corporation, institution, public agency or private agency in
103 settlement or satisfaction of a judgment on any claim for injuries or disability or
104 disease benefits arising from a health insurance program to which the participant
105 may be entitled which resulted in medical expenses for which the department or
106 MO HealthNet division made payment. This lien shall also be applicable to any
107 moneys which may come into the possession of any attorney who is handling the
108 claim for injuries, or disability or disease or benefits arising from a health
109 insurance plan to which the participant may be entitled which resulted in

110 payments made by the department or MO HealthNet division. In each case, a
111 lien notice shall be served by certified mail or registered mail, upon the party or
112 parties against whom the applicant or participant has a claim, demand or cause
113 of action. The lien shall claim the charge and describe the interest the
114 department or MO HealthNet division has in the claim, demand or cause of
115 action. The lien shall attach to any verdict or judgment entered and to any
116 money or property which may be recovered on account of such claim, demand,
117 cause of action or suit from and after the time of the service of the notice.

118 9. On petition filed by the department, or by the participant, or by the
119 defendant, the court, on written notice of all interested parties, may adjudicate
120 the rights of the parties and enforce the charge. The court may approve the
121 settlement of any claim, demand or cause of action either before or after a verdict,
122 and nothing in this section shall be construed as requiring the actual trial or final
123 adjudication of any claim, demand or cause of action upon which the department
124 has charge. The court may determine what portion of the recovery shall be paid
125 to the department against the recovery. In making this determination the court
126 shall conduct an evidentiary hearing and shall consider competent evidence
127 pertaining to the following matters:

128 (1) The amount of the charge sought to be enforced against the recovery
129 when expressed as a percentage of the gross amount of the recovery; the amount
130 of the charge sought to be enforced against the recovery when expressed as a
131 percentage of the amount obtained by subtracting from the gross amount of the
132 recovery the total attorney's fees and other costs incurred by the participant
133 incident to the recovery; and whether the department should, as a matter of
134 fairness and equity, bear its proportionate share of the fees and costs incurred to
135 generate the recovery from which the charge is sought to be satisfied;

136 (2) The amount, if any, of the attorney's fees and other costs incurred by
137 the participant incident to the recovery and paid by the participant up to the time
138 of recovery, and the amount of such fees and costs remaining unpaid at the time
139 of recovery;

140 (3) The total hospital, doctor and other medical expenses incurred for care
141 and treatment of the injury to the date of recovery therefor, the portion of such
142 expenses theretofore paid by the participant, by insurance provided by the
143 participant, and by the department, and the amount of such previously incurred
144 expenses which remain unpaid at the time of recovery and by whom such
145 incurred, unpaid expenses are to be paid;

146 (4) Whether the recovery represents less than substantially full
147 recompense for the injury and the hospital, doctor and other medical expenses
148 incurred to the date of recovery for the care and treatment of the injury, so that
149 reduction of the charge sought to be enforced against the recovery would not
150 likely result in a double recovery or unjust enrichment to the participant;

151 (5) The age of the participant and of persons dependent for support upon
152 the participant, the nature and permanency of the participant's injuries as they
153 affect not only the future employability and education of the participant but also
154 the reasonably necessary and foreseeable future material, maintenance, medical
155 rehabilitative and training needs of the participant, the cost of such reasonably
156 necessary and foreseeable future needs, and the resources available to meet such
157 needs and pay such costs;

158 (6) The realistic ability of the participant to repay in whole or in part the
159 charge sought to be enforced against the recovery when judged in light of the
160 factors enumerated above.

161 10. The burden of producing evidence sufficient to support the exercise by
162 the court of its discretion to reduce the amount of a proven charge sought to be
163 enforced against the recovery shall rest with the party seeking such reduction.

164 11. The court may reduce and apportion the department's or MO
165 HealthNet division's lien proportionate to the recovery of the claimant. The court
166 may consider the nature and extent of the injury, economic and noneconomic loss,
167 settlement offers, comparative negligence as it applies to the case at hand,
168 hospital costs, physician costs, and all other appropriate costs. The department
169 or MO HealthNet division shall pay its pro rata share of the attorney's fees based
170 on the department's or MO HealthNet division's lien as it compares to the total
171 settlement agreed upon. This section shall not affect the priority of an attorney's
172 lien under section 484.140, RSMo. The charges of the department or MO
173 HealthNet division or contractor described in this section, however, shall take
174 priority over all other liens and charges existing under the laws of the state of
175 Missouri with the exception of the attorney's lien under such statute.

176 12. Whenever the department of social services or MO HealthNet division
177 has a statutory charge under this section against a recovery for damages incurred
178 by a participant because of its advancement of any assistance, such charge shall
179 not be satisfied out of any recovery until the attorney's claim for fees is satisfied,
180 [irrespective] **regardless** of whether [or not] an action based on participant's
181 claim has been filed in court. Nothing herein shall prohibit the director from

182 entering into a compromise agreement with any participant, after consideration
183 of the factors in subsections 9 to 13 of this section.

184 13. This section shall be inapplicable to any claim, demand or cause of
185 action arising under the workers' compensation act, chapter 287, RSMo. From
186 funds recovered pursuant to this section the federal government shall be paid a
187 portion thereof equal to the proportionate part originally provided by the federal
188 government to pay for MO HealthNet benefits to the participant or minor
189 involved. The department or MO HealthNet division shall enforce TEFRA liens,
190 42 U.S.C. 1396p, as authorized by federal law and regulation on permanently
191 institutionalized individuals. The department or MO HealthNet division shall
192 have the right to enforce TEFRA liens, 42 U.S.C. 1396p, as authorized by federal
193 law and regulation on all other institutionalized individuals. For the purposes
194 of this subsection, "permanently institutionalized individuals" includes those
195 people who the department or MO HealthNet division determines cannot
196 reasonably be expected to be discharged and return home, and "property" includes
197 the homestead and all other personal and real property in which the participant
198 has sole legal interest or a legal interest based upon co-ownership of the property
199 which is the result of a transfer of property for less than the fair market value
200 within thirty months prior to the [participant's] **participants** entering the
201 nursing facility. The following provisions shall apply to such liens:

202 (1) The lien shall be for the debt due the state for MO HealthNet benefits
203 paid or to be paid on behalf of a participant. The amount of the lien shall be for
204 the full amount due the state at the time the lien is enforced;

205 (2) The MO HealthNet division shall file for record, with the recorder of
206 deeds of the county in which any real property of the participant is situated, a
207 written notice of the lien. The notice of lien shall contain the name of the
208 participant and a description of the real estate. The recorder shall note the time
209 of receiving such notice, and shall record and index the notice of lien in the same
210 manner as deeds of real estate are required to be recorded and indexed. The
211 director or the director's designee may release or discharge all or part of the lien
212 and notice of the release shall also be filed with the recorder. The department
213 of social services, MO HealthNet division, shall provide payment to the recorder
214 of deeds the fees set for similar filings in connection with the filing of a lien and
215 any other necessary documents;

216 (3) No such lien may be imposed against the property of any individual
217 prior to the individual's death on account of MO HealthNet benefits paid except:

218 (a) In the case of the real property of an individual:

219 a. Who is an inpatient in a nursing facility, intermediate care facility for
220 the mentally retarded, or other medical institution, if such individual is required,
221 as a condition of receiving services in such institution, to spend for costs of
222 medical care all but a minimal amount of his or her income required for personal
223 needs; and

224 b. With respect to whom the director of the MO HealthNet division or the
225 director's designee determines, after notice and opportunity for hearing, that he
226 cannot reasonably be expected to be discharged from the medical institution and
227 to return home. The hearing, if requested, shall proceed under the provisions of
228 chapter 536, RSMo, before a hearing officer designated by the director of the MO
229 HealthNet division; or

230 (b) Pursuant to the judgment of a court on account of benefits incorrectly
231 paid on behalf of such individual;

232 (4) No lien may be imposed under paragraph (b) of subdivision (3) of this
233 subsection on such individual's home if one or more of the following persons is
234 lawfully residing in such home:

235 (a) The spouse of such individual;

236 (b) Such individual's child who is under twenty-one years of age, or is
237 blind or permanently and totally disabled; or

238 (c) A sibling of such individual who has an equity interest in such home
239 and who was residing in such individual's home for a period of at least one year
240 immediately before the date of the individual's admission to the medical
241 institution;

242 (5) Any lien imposed with respect to an individual pursuant to
243 subparagraph b of paragraph (a) of subdivision (3) of this subsection shall
244 dissolve upon that individual's discharge from the medical institution and return
245 home.

246 14. The debt due the state provided by this section is subordinate to the
247 lien provided by section 484.130, RSMo, or section 484.140, RSMo, relating to an
248 attorney's lien and to the participant's expenses of the claim against the third
249 party.

250 15. Application for and acceptance of MO HealthNet benefits under this
251 chapter shall constitute an assignment to the department of social services or MO
252 HealthNet division of any rights to support for the purpose of medical care as
253 determined by a court or administrative order and of any other rights to payment

254 for medical care.

255 16. All participants receiving benefits as defined in this chapter shall
256 cooperate with the state by reporting to the family support division or the MO
257 HealthNet division, within thirty days, any occurrences where an injury to their
258 persons or to a member of a household who receives MO HealthNet benefits is
259 sustained, on such form or forms as provided by the family support division or
260 MO HealthNet division.

261 17. If a person fails to comply with the provision of any judicial or
262 administrative decree or temporary order requiring that person to maintain
263 medical insurance on or be responsible for medical expenses for a dependent
264 child, spouse, or ex-spouse, in addition to other remedies available, that person
265 shall be liable to the state for the entire cost of the medical care provided
266 pursuant to eligibility under any public assistance program on behalf of that
267 dependent child, spouse, or ex-spouse during the period for which the required
268 medical care was provided. Where a duty of support exists and no judicial or
269 administrative decree or temporary order for support has been entered, the
270 person owing the duty of support shall be liable to the state for the entire cost of
271 the medical care provided on behalf of the dependent child or spouse to whom the
272 duty of support is owed.

273 18. The department director or the director's designee may compromise,
274 settle or waive any such claim in whole or in part in the interest of the MO
275 HealthNet program. Notwithstanding any provision in this section to the
276 contrary, the department of social services, MO HealthNet division is not required
277 to seek reimbursement from a liable third party on claims for which the amount
278 it reasonably expects to recover will be less than the cost of recovery or for which
279 recovery efforts will not be cost-effective. Cost-effectiveness is determined based
280 on the following:

- 281 (1) Actual and legal issues of liability as may exist between the [recipient]
282 **participant** and the liable party;
283 (2) Total funds available for settlement; and
284 (3) An estimate of the cost to the division of pursuing its claim.

208.1300. As used in sections 208.1300 to 208.1345, the following
2 **terms shall mean:**

- 3 (1) "Plan", the show-me health coverage plan established in
4 **section 208.1303;**
5 (2) "Preventive care services", care that is provided to an

6 individual to prevent disease, diagnose disease, or promote good
7 health.

208.1303. 1. Subject to appropriations, the "Show-me Health
2 Coverage" plan is hereby established.

3 2. The department of social services shall administer the plan.

4 3. The department of insurance, financial institutions and
5 professional registration and the MO HealthNet division of the
6 department of social services shall provide oversight of the marketing
7 practices of the plan.

8 4. The department of social services shall promote the plan and
9 provide information to potential eligible individuals.

10 5. The department of social services shall, to the extent possible,
11 ensure that enrollment in the plan is distributed throughout Missouri
12 in proportion to the number of individuals who are eligible for
13 participation in the plan.

14 6. The MO HealthNet division shall establish standards for
15 consumer protection, including the following:

16 (1) Quality of care standards;

17 (2) A uniform process for participant grievances and appeals;

18 (3) Standardized reporting concerning provider performance,
19 consumer experience, and cost.

20 7. Premiums for such plans under sections 208.1300 to 208.1345
21 shall be charged based on actuarially sound principles consistent with
22 section 208.178.

208.1306. 1. The plan shall provide a health care home, as
2 defined in rules promulgated by the department of social services, for
3 every participating individual.

4 2. The plan shall include the following medically necessary
5 services in a manner and to the extent determined by the MO HealthNet
6 division:

7 (1) Mental health care services;

8 (2) Inpatient hospital services;

9 (3) Prescription drug coverage;

10 (4) Emergency room services;

11 (5) Physician and advanced practice nurse services;

12 (6) Diagnostic services;

13 (7) Outpatient services;

- 14 (8) Home health services;
- 15 (9) Urgent care center services;
- 16 (10) Preventive care services;
- 17 (11) Family planning services:
- 18 (a) Including contraceptives and sexually transmitted disease
- 19 testing, as described in federal Medicaid law, 42 U.S.C. 1396, et seq.; and
- 20 (b) Not including abortion or abortifacients, except as required
- 21 in federal Medicaid law, 42 U.S.C. 1396, et seq.;
- 22 (12) Hospice services;
- 23 (13) Substance abuse services;
- 24 (14) Federally qualified health center and rural health clinic
- 25 services;
- 26 (15) Durable medical equipment;
- 27 (16) Emergency transportation services;
- 28 (17) Personal care services;
- 29 (18) Case management, care coordination, and disease
- 30 management; and
- 31 (19) Therapy services including physical, occupational, and
- 32 speech therapy.

33 3. The plan may not permit treatment limitations or financial

34 requirements on the coverage of mental health care services or

35 substance abuse services if similar limitations or requirements are not

36 imposed on the coverage of services for other medical or surgical

37 conditions.

208.1309. 1. The plan shall, subject to appropriations, provide to

2 an individual who participates in the plan a list of health care services

3 that qualify as preventive care services for the age, gender, and

4 preexisting conditions of the individual. The plan shall consult with

5 the federal U.S. Preventive Services Task Force for a list of

6 recommended preventive care services.

7 2. The plan shall, at no cost to the individual, provide payment

8 for at least five hundred dollars of qualifying preventive care services

9 per year for an individual who is eligible based on subdivision (2) of

10 subsection 1 of section 208.1318. Any additional preventive care

11 services covered under the plan and received by an individual who is

12 eligible based on subdivision (2) of subsection 1 of section 208.1318 are

13 subject to the deductible and payment requirements of the plan.

208.1312. Under no circumstances shall less than eighty-eight
2 percent of the funds appropriated by the general assembly for the plan
3 be used to fund payment for health care services.

208.1315. The maximum enrollment of individuals who may
2 participate in the plan is dependent on funding appropriated for the
3 plan by the general assembly. Eligibility for the plan may be phased-in
4 incrementally on the basis of actions taken by the general assembly in
5 the appropriations process.

208.1318. 1. An individual is eligible for participation in the plan
2 if the individual meets the following requirements:

3 (1) The individual is at least nineteen years of age and less than
4 sixty-five years of age and, subject to appropriations, for eligibility
5 under 42 U.S.C. 1396u-1:

6 (a) Income in the amount of the difference between the income
7 standard established for eligibility under section 208.145 and fifty
8 percent of the federal poverty level is disregarded; or

9 (b) The individual:

10 a. Has an annual household income of not more than the level
11 established by appropriation, not to exceed one hundred percent of the
12 federal poverty level;

13 b. Has household earned income above the temporary assistance
14 for needy families limit; and

15 c. Does not have household unearned income above the
16 temporary assistance for needy families limit, excluding unemployment
17 insurance benefits up to one thousand dollars per month, child support
18 up to five hundred dollars per month, and a child's federal Old-Age
19 Survivors or Disability Insurance (OASDI) benefit up to one thousand
20 dollars per month.

21 The four-month thirty dollar plus one-third of earned income disregard
22 nor the eight-month thirty dollar disregard shall not be allowed under
23 this subdivision. The combined amount of earned and unearned income
24 shall not exceed one hundred percent of the federal poverty level; or

25 (2) The individual meets all of the following requirements:

26 (a) The individual is at least nineteen years of age and less than
27 sixty-five years of age;

28 (b) The individual is a United States citizen or eligible qualified
29 legal alien and is a resident of Missouri;

30 (c) The individual has an annual household income of not more
31 than the level established by appropriation, not to exceed two hundred
32 twenty-five percent of the federal poverty level;

33 (d) The individual does not have access to health insurance
34 coverage through the individual's employer. For the purposes of this
35 section, "access to health insurance coverage" means that the
36 individual's employer-provided health insurance requires the payment
37 of a premium not exceeding the amount set by subdivision (1) of
38 subsection 1 of section 208.640 for individuals with incomes below one
39 hundred eighty-five percent of the federal poverty level and the amount
40 set by subdivision (2) of subsection 1 of section 208.640 for individuals
41 with incomes one hundred eighty-five percent of the federal poverty
42 level and above. The department may enroll the individual in the
43 health insurance premium payment program if it is more cost
44 beneficial to the show-me health coverage plan and as allowed by the
45 centers for Medicare and Medicaid services;

46 (e) The individual has not had health insurance coverage for at
47 least six months;

48 (f) The individual has household earned income above the
49 temporary assistance for needy families limit;

50 (g) The individual does not have household unearned income
51 above the temporary assistance for needy families limit, excluding
52 unemployment insurance benefits up to one thousand dollars per
53 month, child support up to five hundred dollars per month, and a
54 child's OASDI benefit up to one thousand dollars per month; and

55 (h) The combined amount of earned and unearned income shall
56 not exceed the income eligibility level set by appropriation, not to
57 exceed two hundred twenty-five percent of the federal poverty level.

58 2. The following individuals are not eligible for the plan:

59 (1) An individual who participates in the federal Medicare
60 program, 42 U.S.C. 1395, et seq.;

61 (2) A pregnant woman for purposes of pregnancy-related
62 services, unless she does not qualify by reason of income for MO
63 HealthNet for pregnant women.

64 3. The eligibility requirements specified in subsection 1 of this
65 section are subject to approval for federal financial participation by
66 the United States Department of Health and Human Services.

67 4. The plan is not an entitlement program for individuals eligible
68 based on the requirements of subdivision (2) of subsection 1 of this
69 section.

 208.1321. 1. Individuals eligible under subdivision (2) of
2 subsection 1 of section 208.1318 who participate in the plan shall have
3 a health care account to which payments may be made for the
4 individual's participation in the plan by any of the following:

- 5 (1) The individual;
- 6 (2) An employer;
- 7 (3) The state;
- 8 (4) Any philanthropic or charitable contributor; or
- 9 (5) Health carriers that operate wellness and health promotion
10 programs, disease and condition management programs, health risk
11 appraisal programs, and other similar programs. Such requirements
12 shall not be considered to be engaging in unfair trade practices under
13 section 375.936, RSMo, with respect to the practices of illegal
14 inducements, unfair discrimination, and rebating.

15 2. The minimum funding amount for a health care account is the
16 amount required under section 208.1324.

17 3. An individual's health care account shall be used to pay the
18 individual's deductible for health care services under the plan.

19 4. An individual may make payments to the individual's health
20 care account as follows:

21 (1) An employer withholding or causing to be withheld from an
22 employee's wages or salary, before taxes are deducted from the wages
23 or salary, the individual's contribution under this section and
24 distributed equally throughout the calendar year;

25 (2) Submission of the individual's contribution under sections
26 208.1300 to 208.1345 to the MO HealthNet division to deposit in the
27 individual's health care account in a manner prescribed by the
28 division;

29 (3) Another method determined by the division.

30 5. An employer may make, from funds not payable by the
31 employer to the employee, not more than fifty percent of an individual's
32 required payment to the individual's health care account.

 208.1324. 1. For individuals required to contribute to a health
2 care account under section 208.1321, participation in the plan does not

3 begin until an initial payment is made for the individual's participation
4 in the plan. A required payment to the plan for the individual's
5 participation may not exceed one-twelfth of the annual payment
6 required under subsection 2 of this section.

7 2. To participate in the plan, an individual shall do the following:

8 (1) Apply for the plan in a manner prescribed by the department
9 of social services. The department of social services may develop and
10 allow a joint application for a household;

11 (2) If the individual is approved by the department of social
12 services to participate in the plan, contribute to the individual's health
13 care account the lesser of the following:

14 (a) One thousand dollars in the first year adjusted annually each
15 year thereafter by the Consumer Price Index, less any amounts paid by
16 the household under the:

17 (i) MO HealthNet program;

18 (ii) Children's health insurance program; and

19 (iii) Medicare program, 42 U.S.C. 1395, et seq., as determined by
20 the department of social services; or

21 (b) Not more than the following applicable percentage of the
22 individual's annual household income per year, less any amounts paid
23 by the individual under the Medicaid program, the children's health
24 insurance program, and the Medicare program, 42 U.S.C. 1395, et seq.,
25 as determined by the department of social services:

26 (i) Two percent of the individual's annual household income per
27 year if the individual has an annual household income of more than one
28 hundred percent and not more than one hundred twenty-five percent
29 of the federal poverty level;

30 (ii) Three percent of the individual's annual household income
31 per year if the individual has an annual household income of more than
32 one hundred twenty-five percent and not more than one hundred fifty
33 percent of the federal poverty level;

34 (iii) Four percent of the individual's annual household income
35 per year if the individual has an annual household income of more than
36 one hundred fifty percent and not more than two hundred percent of
37 the federal poverty level;

38 (iv) Five percent of the individual's annual household income per
39 year if the individual has an annual household income of more than

40 two hundred and not more than two hundred fifty percent of the
41 federal poverty level; or

42 (v) One percent of the individual's annual household income per
43 year if the individual is not described in subsection 2 of section 208.145
44 and has an annual household income of less than one hundred percent
45 of the federal poverty level.

46 3. In no case shall the combined household contribution to the
47 health care account and other deductible or co-pay exceed five percent
48 of the annual household income.

49 4. The state shall contribute the difference to the individual's
50 account if the individual's payment required under subdivision (2) of
51 subsection 2 of this section is less than one thousand dollars in the first
52 year or the amount each year thereafter as adjusted by the federal
53 consumer price index.

54 5. If an individual's required payment to the plan is not made
55 within sixty days after the required payment date, the individual may
56 be terminated from participation in the plan. The individual shall
57 receive written notice before the individual is terminated from the
58 plan.

59 6. After termination from the plan under subsection 5 of this
60 section, the individual may reapply to participate in the plan six
61 months after termination from the plan.

62 7. The deductible that is required of individuals eligible for the
63 plan under subdivision (2) of subsection 1 of section 208.1318 shall not
64 be greater than the amount in their health savings account. The plan
65 shall pay for any covered health services if the individual has made the
66 required contribution to the individual's health savings account.

208.1327. 1. An individual approved to participate under
2 subdivision (2) of subsection 1 of section 208.1318 is eligible for a
3 twelve-month plan period unless the individual fails to make a
4 contribution to the plan as required in section 208.1324. An individual
5 who participates in the plan without a break in service may not be
6 refused renewal of participation in the plan for the sole reason that the
7 plan has reached the plan's maximum enrollment.

8 2. If the individual chooses to renew participation in the plan,
9 the individual shall complete a renewal application and any necessary
10 documentation on a form prescribed by the department of social

11 services.

12 3. Any funds remaining in the health care account of an
13 individual who renews participation in the plan at the end of the
14 individual's twelve-month plan period shall remain in the account. The
15 state's contribution to an individual's account shall be suspended the
16 month after the ending account balance exceeds one thousand dollars
17 and shall resume the month after the ending account balance is less
18 than one thousand dollars.

19 4. If an individual is no longer eligible for the plan, does not
20 renew participation in the plan at the end of the plan period, or is
21 terminated from the plan for nonpayment of a required payment, the
22 MO HealthNet division shall, not more than one hundred twenty days
23 after the last date of participation in the plan, provide for the refund
24 to the individual the amount of any individual payments remaining in
25 the individual's health care account as determined by rule. The insurer
26 or health maintenance organization managing the health care account
27 shall determine the allocation of the balance of the health care account
28 between contributions by the individual and contributions by the state
29 using a first-in, first-out basis of accounting.

30 5. (1) Subject to approval by the Centers for Medicare and
31 Medicaid Services, participation in the plan for those individuals
32 qualifying under paragraph (a) of subdivision (1) of subsection 1 of
33 section 208.1318 shall not exceed three years, except that coverage may
34 be extended for individuals either participating in a program to
35 complete a general education development diploma, commonly referred
36 to as a GED, or enrolling for and completing at least twelve hours of
37 credit each semester at an institution of vocational or higher education
38 and such individual achieves grades sufficient to reenroll at such
39 institution. Every year thereafter, in order to remain eligible for such
40 continued coverage under the plan, the individual shall submit to the
41 MO HealthNet division a transcript or similar official document
42 provided by the institution of vocational or higher education which
43 includes the courses the individual is enrolled in and has completed for
44 each term, and an official document from the institution listing the
45 courses which the individual is enrolled in for the upcoming term and
46 the number of credits for each such course. The continuation of
47 coverage under this plan shall not exceed five years total from when

48 the individual first received coverage. As used in this subsection, an
49 "institution of vocational education" means any postsecondary training
50 or schooling for which the student is assessed a fee and attends classes
51 regularly. "Higher education" means any community college, college, or
52 university at which the individual attends classes regularly.

53 (2) Individuals continuing in the plan under this subsection shall
54 sign a condition of participation agreement attesting to the fact that
55 the individual understands the time limit for coverage under the plan
56 as provided for in this subsection and the requirements for continued
57 coverage.

208.1330. 1. An insurer or health maintenance organization that
2 contracts with the MO HealthNet division to provide health insurance
3 coverage to an individual that participates in the plan:

- 4 (1) Is responsible for the claim processing for the coverage;
- 5 (2) Is responsible for provider reimbursement;
- 6 (3) Is responsible for providing and maintaining health care
7 accounts for each participant;
- 8 (4) Shall not deny coverage to an eligible individual who has
9 been approved by the department of social services to participate in
10 the plan; and
- 11 (5) Shall not charge a deductible exceeding one thousand dollars
12 in the first year of the plan or the amount each year thereafter, as
13 adjusted by the consumer price index.

14 2. An insurer or a health maintenance organization that
15 contracts with the MO HealthNet division to provide health insurance
16 coverage under the plan shall incorporate cultural competency
17 standards established by the Mo HealthNet division. The standards
18 shall include standards for non-English speaking, minority, and
19 disabled populations.

208.1333. 1. An insurer or a health maintenance organization
2 that contracts with the MO HealthNet division to provide health
3 insurance coverage under the plan or an affiliate of an insurer or a
4 health maintenance organization that contracts with the MO HealthNet
5 division to provide health insurance coverage under the plan shall offer
6 to provide the same health insurance coverage to an individual who:

- 7 (1) Has not had health insurance coverage during the previous
8 six months; and

9 (2) Meets the eligibility requirements specified in section
10 208.1318 for participation in the plan but is not enrolled because the
11 plan has reached maximum enrollment.

12 2. The insurance underwriting and rating practices applied to
13 health insurance coverage offered under subsection 1 of this section
14 shall not be different from underwriting and rating practices used for
15 the health insurance coverage provided under the plan.

16 3. The state shall not provide funding for health insurance
17 coverage received under this section. The individual participant shall
18 be responsible for the required contribution to the health care account
19 and for payment of the monthly premium established in contract
20 between the MO HealthNet division and the insurance company or
21 health maintenance organization.

 208.1336. The MO HealthNet division shall promulgate rules and
2 regulations for the implementation of sections 208.1300 to
3 208.1345. Any rule or portion of a rule, as that term is defined in
4 section 536.010, RSMo, that is created under the authority delegated in
5 this section shall become effective only if it complies with and is
6 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
7 section 536.028, RSMo. This section and chapter 536, RSMo, are
8 nonseverable and if any of the powers vested with the general assembly
9 pursuant to chapter 536, RSMo, to review, to delay the effective date,
10 or to disapprove and annul a rule are subsequently held
11 unconstitutional, then the grant of rulemaking authority and any rule
12 proposed or adopted after August 28, 2009, shall be invalid and void.

 208.1345. 1. The MO HealthNet division shall apply to the United
2 States Department of Health and Human Services for approval of a
3 Section 1115 demonstration waiver and/or a Medicaid state plan
4 amendment to develop and implement the plan, provided that any
5 reduction of disproportionate share hospital funds applied to the cost
6 of the plan as required by such waiver shall not be disproportionate to
7 the impact the program has on Missouri's low-income uninsured. The
8 provisions of sections 208.1300 to 208.1345, the show-me health coverage
9 plan, shall be void and of no effect if there are no funds of the United
10 States appropriated by Congress to be provided to the state on the
11 basis of a state plan or waiver approved by the federal government
12 under the federal Social Security Act or if there are no

13 **disproportionate share hospital funds applied to the program.**

14 **2. By December 28, 2009, the department of social services shall**
15 **identify and report to the general assembly a strategy through which**
16 **at least some portion of the individuals participating in this plan under**
17 **subdivision (2) of subsection 1 of section 208.1318 are included in the**
18 **Missouri consolidated health care plan (MCHCP) population using a**
19 **health savings account model, or whether MCHCP could administer**
20 **those individuals in this plan under subdivision (2) of subsection 1 of**
21 **section 208.1318 using the current structure in place for MCHCP**
22 **participants using such model. The department and the board of**
23 **trustees of the MCHCP shall convene a working group to assist with the**
24 **development of such strategy. The working group shall include two**
25 **health carriers who currently or previously have contracted with**
26 **MCHCP. The working group shall dissolve on December 28, 2009.**

27 **3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:**

28 **(1) The provisions of the new program authorized under sections**
29 **208.1300 to 208.1345 shall automatically sunset six years after the**
30 **effective date of this section unless reauthorized by an act of the**
31 **general assembly; and**

32 **(2) If such program is reauthorized, the program authorized**
33 **under sections 208.1300 to 208.1345 shall automatically sunset twelve**
34 **years after the effective date of the reauthorization of sections 208.1300**
35 **to 208.1345; and**

36 **(3) Sections 208.1300 to 208.1345 shall terminate on September**
37 **first of the calendar year immediately following the calendar year in**
38 **which the program authorized under sections 208.1300 to 208.1345 are**
39 **sunset.**

287.266. 1. As used in this section, the following terms mean:

2 **(1) "Provider", any individual, corporation, public or private entity that**
3 **has entered into an agreement with the state to provide any service set out in**
4 **section 208.152, RSMo, and subsequent amendments;**

5 **(2) "Person eligible for public assistance", any individual who is or was**
6 **eligible for medical assistance under the laws of this state.**

7 **2. Payments made by the department to or on behalf of a person**
8 **eligible for public assistance as the result of any compensable injury, occupational**
9 **disease or disability as defined by this chapter shall be presumed to be**
10 **benefits incorrectly paid for purposes of 42 U.S.C. 1396p, shall be a debt**

11 due the state, and recovery of same shall be a recognized action pursuant to this
12 chapter. **Any settlement approved or judgment issued by the**
13 **administrative law judge shall constitute a judgment of a court on**
14 **account of benefits incorrectly paid under 42 U.S.C. 1396p.**

15 3. The state shall have a lien upon any funds owed by any employer that
16 are or might be due under any insurance agreement or self-insurance authority
17 in effect at the time the medical expense or any portion thereof was paid by the
18 department of social services or its designated division.

19 4. **Any settlement approved or judgment issued by the**
20 **administrative law judge shall require full repayment of all moneys**
21 **paid by the department to or on behalf of a person eligible for public**
22 **assistance as the result of any compensable injury, occupational**
23 **disease, or disability as defined by this chapter. All moneys repaid to**
24 **the department shall be allocated as medical expenses in the settlement**
25 **or judgment.** The state shall have a right of subrogation to any funds for
26 **medical expenses** owed to or received by the employee or any person,
27 corporation, public agency or private agency acting on his behalf notwithstanding
28 any other provisions of this chapter. **The amount of medical expenses**
29 **authorized by the administrative law judge shall be greater than or**
30 **equal to the debt due the state. In no case shall the debt due the state**
31 **be reduced.**

32 5. The department [of social services] or its designated division may
33 maintain an appropriate action to recover funds due under this section pursuant
34 to the workers' compensation law or the second injury fund, which includes the
35 exercise of all appeal rights afforded by the laws of this state.

36 6. The department shall have a right to recover the full amount of its
37 payments when payments are made to a provider under this chapter if the
38 payments were made on behalf of a person eligible for public assistance for an
39 injury, occupational disease, or disability which is compensable under this
40 chapter **notwithstanding the injured employee's selection of a provider**
41 **or direction of care.**

42 7. This debt due the state shall be subordinate only to the fee rights of the
43 injured employee's attorney pursuant to this chapter, and the state shall not be
44 required to pay any portion of the fees or costs incurred by the employee or the
45 employer.

46 8. Application for and acceptance of public assistance made to or on behalf

47 of the injured employee shall constitute an assignment of rights to the
48 department of social services for reimbursement of funds expended by the
49 department of social services in the treatment of a compensable injury.

50 **9. The employer and attorney for an injured worker who is**
51 **eligible for and receives public assistance as provided by sections**
52 **208.151 to 208.159, RSMo, and section 208.162, RSMo, as the result of an**
53 **occupational or work-related incident shall give the department of**
54 **social services thirty days notice of any institution of a proceeding,**
55 **settlement, or judgment. No settlement or judgment may be approved**
56 **or issued by the administrative law judge without the filing of a release**
57 **from the MO HealthNet division evidencing full repayment of all**
58 **moneys paid by the department to or on behalf of a person eligible for**
59 **public assistance as the result of any compensable injury, occupational**
60 **disease, or disability as defined by this chapter. [The] Any attorney for**
61 **the injured worker shall also** notify the department of social services upon
62 representation of each client who was eligible for public assistance as provided
63 by sections 208.151 to 208.159, RSMo, and section 208.162, RSMo, prior to, during
64 or subsequent to the date of injury, that the attorney was retained to pursue the
65 client's legal rights related to the compensable injury.

66 **10. The administrative law judge, pursuant to authority granted under**
67 **section 287.610, shall apportion the debt due the state between the injured**
68 **worker and the injured worker's employer or their designated representatives in**
69 **accordance with state and federal law** when an agreement cannot be
70 reached regarding the respective liability for money expended by the department
71 of social services on behalf of the injured employee, but in no case shall the debt
72 due the state be reduced.

✓